

REMARKS

Disposition of the Claims

Claims 1-16 are pending. Claim 1 is independent. Claims 2-16 depend, directly or indirectly, from claim 1.

Response to the Restriction Requirement

The Examiner asserts that the original claims include 3 inventions. The restriction is respectfully traversed for the following reasons.

Applicant respectfully notes that this application is a National Stage application, under 35 U.S.C. § 371, based on a PCT application. Therefore, the “unity of invention” concept under PCT rules 13.1 and 13.2 should be followed. *See*, 37 CFR § 1.475 and § 1.499 et seq. MPEP § 1850.

“Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims. . . . If the independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity arises in respect of any claims that depend on the independent claims.” MPEP § 1850. Thus, it is improper for the Examiner to require restriction of the dependent claims.

In the Restriction Requirement, the Examiner asserts that the present invention is drawn to three separate groups of ischemic agents. However, the three groups cited by the Examiner are all based on the language of dependent claims 3 and 6. Independent claim 1 is silent with respect to a specific growth factor. Thus, it is improper to draw claim 1 to, for example, an ischemic agent containing a basic fibroblast growth factor, as the Examiner does in the Restriction Requirement. Because the differences between the three groups cited by the Examiner are directed only to the dependent claims, a restriction requirement is improper. Accordingly, withdrawal of this requirement is respectfully requested.

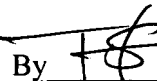
In the event that the Examiner maintains the Restriction Requirement, Applicant elects, with traverse, Group I, drawn to an ischemic agent containing a basic fibroblast growth factor, on which claims 1-16 read.

Conclusion

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 17195/005001).

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Respectfully submitted,

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